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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,041	10/29/2003	Joel S. Rossen	ZM244/03001	7147

27868 7590 04/09/2007  
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LOUISVILLE, KY 40202

EXAMINER
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PATEL, TARLA R

ART UNIT	PAPER NUMBER
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3772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/696,041

Applicant(s)

ROSSEN, JOEL S.

Examiner

Tarla R. Patel

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29, 37-58, 66-73, 76 and 78-81 is/are pending in the application.
- 4a) Of the above claim(s) 12, 22-25, 27-29, 37-58, 66-73, 76 and 78-81 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-21 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/29/03</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. A corrected grouping of the claims for the distinct inventions is below.

This reflects the claims cancelled in the pre-amendment filed 10/29/03.

I. Claims 1-29, and 37-58, drawn to a Bandage, classified in class 602, subclass 57.

II. Claims 66-73, 76, and 78-81, drawn to a Deploying mechanism, classified in class 602, subclass 79.

2. Claims 12,22-25 and 27-81 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/7/07. The confirmation was made by Charles I. Sherman on 3/28/07.

3. Applicant's election without traverse of Group 1, Species A in the reply filed on 3/7/07 is acknowledged. The claims reading in Group I, Species A are 1-11,13-21 and 26 have been examined on the merits.

### ***Information Disclosure Statement***

4. The Information disclosure statement (IDS) submitted on 10/29/03 is acknowledged by Examiner. The IDS meets the requirements of 37 CFR 1.97 and 1.98 and therefore the references there in have been considered.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8,10,11,13,16-21 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Geng (6,043,408).

Geng discloses an invasive medical procedure site dressing comprising an observation door (18), an absorbent layer (22) interposed on a carrier paper (8) and patch base layer (4), a procedure site aperture (50) which passes through patch base layer (4); said carrier paper (8) is adhesively (6) adhered to said patch base layer and said absorbent layer is smaller than said patch base layer.

With respect to claim 2, said carrier paper contacts a bottom surface of said absorbent layer and a portion of a bottom face of said patch base layer (column 3 lines 3-6).

With respect to claim 3, said carrier paper is composed of material such as paper, polyethylene or polypropylene, which can be coated with suitable finish, such as clay and with a release agent such as silicone (column 3 lines 47-52), these are designed to affix to and release from an adhesive layer.

With respect to claim 4, said patch base layer is composed of a Nylon, Dacron, polyethylene, cotton or linen, which are all flexible in nature (column 3 lines 29-35).

With respect to claim 5, said patch base layer further comprises an adhesive (6) coating on a bottom face of said patch base layer (column 3 lines 3-6).

With respect to claim 6, said adhesive coating on said patch base layer is of such strength to adhere said site dressing to said patients skin without requiring an adhesive coating on said absorbent layer (column 3 lines 36-42).

With respect to claim 7, said absorbent layer is made of gauze, which is absorbent material (column 4 lines 2-4).

With respect to claim 8, said absorbent layer further comprises an adhesive coating on a bottom surface, since it is a part of flap, which is permanently

attached to patch base layer (4) has adhesive in the bottom, it is inherent that absorbent layer does have adhesive on the bottom too.

With respect to claim 10, said procedure site aperture through said absorbent layer and said procedure site aperture through said patch base layer are similar in size and shape (see fig 6).

With respect to claim 11, said observation door or flap is composed of a transparent material (column 4 lines 1).

With respect to claim 13, said observation door is comprised of flap member (18) and a fixed member (24) joined at a hinge (14b), said fixed member folded under said flap member at said hinge and adhered to said patch base layer with a permanent adhesive (30).

With respect to claim 16, said flap member of said observation door has a transparent window (column 4 lines 1).

With respect to claim 17, said flap member of said observation door is comprised of same material as patch base layer, which is made of a gas permeable material with minute pores (column 3 lines 15-26) and a releasable adhesive on said flap member's top surface.

With respect to claim 18, said flap member of said observation door has an absorbent pad mounted to a backing releasably affixed to said flap member with said releasable adhesive (column 4 lines 2-6).

With respect to claim 19, said absorbent pad is comprised of an absorbent material is gauze (column 4 lines 2-4), which is cotton and absorbent pad is cut from said absorbent layer such that said absorbent pad is about a same size and shape as said absorbent layer (see fig 3 and 6).

With respect to claim 20, said absorbent pad has a backing (20) with a removal tab (28).

With respect to claim 21, said removal tab is extended and said absorbent pad is positioned on a lower side of said extended removal tab (see fig 6).

However Geng does not disclose an absorbent layer interposed between a carrier paper and patch base layer, an aperture passed through co-aligned apertures in absorbent layer and patch base layer. At the time of the invention, it would have been an obvious matter of design choice to modify wound dressing of Geng to have absorbent layer interposed between a carrier paper and patch base layer, and an aperture pass through absorbent layer and patch base layer, since applicant has set forth no critically as to the structure and function of the absorbent layer interposed

between a carrier paper and patch base layer, and an aperture pass through absorbent layer and patch base layer solves any particular problem or produces any unexpected result, these modification is merely a matter of engineering design choice, and thus does not serve to patentably distinguish the claimed invention over the prior art. See In re Kuhle, 526 F.2d.553, 188USPQ7 (CCPA 1975).

3. Claims 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Geng (408) in view of Webster (5,782,787).

Geng substantially disclose the invention, please see rejection to claims 1-8,10,11,13,16-21 and 26 above; however Geng does not discloses that wound dressing absorbent layer varies in thickness from about 1/16 of an inch to about one inch, which is 1.5875 mm in thickness.

However Webster teaches a wound dressing having absorbent layers have a thickness of 0.5 mm to 20 mm, more suitably 0.8 mm to 12 mm and preferably 1 mm to 8 mm, for example 4 mm to 6 mm (column 3 lines 65-67). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to make absorbent layer for wound dressing of Geng to have thickness of preferably 1 mm to 8 mm, as taught by Webster to have more fluid absorption capacity.



4. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geng (408).

Geng substantially disclose the invention, please see rejection to claims 1-8,10,11,13,16-21 and 26 above; however Geng does not discloses that wound dressing having observation door is held in an open and undeployed position by a releasable adhesive bead located on patch base layer such that flap member of observation door can be released from releasable adhesive bead and swiveled on said hinge to a closed and deployed position and flap member is further comprising a positioning tab placed opposite hinge.

At the time of the invention, it would have been an obvious matter of design choice to modify the wound dressing to have adhesive bead placed on the patch base layer such that flap member of observation door can be released from releasable adhesive bead and swiveled on hinge to a closed and deployed position and further having positioning tab placed opposite hinge are merely a matter of engineering design choice, and thus does not serve to patentably distinguish the claimed invention over the prior art. See In re Kuhle, 526 F.2d.553, 188USPQ7 (CCPA 1975).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tollini (5,449,340) discloses a bandage for replaceable dressing, Tollini (5,397,639) discloses a securing tape, Davis (5,372,589) discloses a transparent catheter securing device and method, Hathman (5,086,763) discloses a protective reclosable wound dressing, and Hathman (5,702,356) discloses a disposable wound dressing permitting non-invasive examination.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tarla R. Patel whose telephone number is 571-272-3143. The examiner can normally be reached on M-F 6-3.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TP

  
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4/2/07